

Below is a wide variety of interesting information. The topics relate to a number of areas where concerns have been mentioned. My thanks to all who have contributed!
Have fun!!!
Ken

HIPAA v. Gramm-Leach-Bliley
National Privacy / Security Sub-workgroup
Upcoming Events
[hipaalive] HIPAA related to a correctional care facility
[hipaalive] Re: SECURITY: Status of Regulation
[hipaalive] Re: TCS-NCPDP Standard
[hipaalive] PRIVACY - Rumors of Overturning Privacy Rule
[hipaalive] RE: SECURITY: Certification
[hipaalive] RE: PRIVACY (FAXing)
[hipaalert] The Executive's Essential HIPAA AudioConference - Next Tuesday, March 27th
Paul Introduces Legislation to Fight Invasion of Medical Privacy
[hipaalive] PRIVACY: Medical Savings Plans

***** HIPAA v. Gramm-Leach-Bliley *****
>>> "Huber, Cheryl" <CHUBER@co.napa.ca.us> 03/20/01 11:52AM >>>

Followup to our March 19, HIPAA Workgroup Meeting:

When this topic came up yesterday I was fairly certain that GLB was specifically addressed in the Final Privacy Rule but could not definitively point out where. I have since found it, however, and would refer you to the Preamble Part II, Part 160, Subpart B - Examples of Interaction, (referring to the privacy regulation's interaction with existing federal laws.) Particularly note the third paragraph under the Gramm-Leach-Bliley heading.

***** National Privacy / Security Sub-workgroup *****
>>> frasierb@dhmh.state.md.us 03/19/01 11:41AM >>>
Hello everyone. My name is Bobbe Frasier. I am with the Maryland Department of Health and Mental Hygiene. I did something I never did in the Army and that is I've volunteered to head the privacy and security work groups. Now with that said, please send me an e-mail directly and not via the list serv to volunteer to be on this work group. My information is:

e-mail: frasierb@dhmh.state.md.us
snail mail: Maryland Department of Health and Mental Hygiene
201 West Preston Street, Room 137-A
Baltimore, Maryland 21201
voice: 410-767-1715
Fax: 410-333-5212

Looking forward to working with you.

***** Upcoming Events *****
>>> "Huber, Cheryl" <CHUBER@co.napa.ca.us> 03/20/01 10:52AM >>>
As promised, here are the HIPAA pertinent events, local and national, I am aware of to date:

April 23 - 24 National Summit on E-Privacy in Government in
Washington, D.C.
Sponsored by Digital Signature Trust Co. and the
National Institute for Government Innovation
888-670-8200 OR www.nigi.org <<http://www.nigi.org>>
OR register@iirny.com <<mailto:register@iir-ny.com>>

May 2 - 4 The First Annual Privacy & Data Protection Summit in
Arlington, VA
Sponsored by the Privacy Officers' Association and
the Health Care Compliance Association
800-546-3760 OR www.privacyassociation.org
<<http://www.privacyassociation.org>> OR information@privacyassociation.org
<<mailto:information@privacyassociation.org>>

May 16 Advanced Topics in Health Care Compliance in

California (a one-day seminar) in Berkeley
by Lorman Education Services with presenters from
various healthcare/compliance organizations
715-833-3940 OR www.lorman.com
<<http://www.lorman.com>>

June 11 - 12 Ensuring Operational Compliance for HIPAA in
Washington, D.C.
Sponsored by the Healthcare Division of the
Institute for International Research
888-670-8200 OR www.iir-ny.com
<<http://www.iir-ny.com>>

June 20 - 22 HIPAA Summit West in San Francisco
Part of the National HIPAA Summit Series originated
by HCCA
888-580-8373 OR www.hipaasummt.com
<<http://www.hipaasummt.com>>

March 22 - Eli's Second National
Teleconference on HIPAA Compliance
Presented by Eli Research, Inc.
800-874-9180 OR www.eliresearch.com/HIPAA.html
<<http://www.eliresearch.com/HIPAA.html>>

***** [hipaalive] HIPAA related to a correctional care facility *****
*** This is HIPAAlive! From Phoenix Health Systems ***

I am the HIPAA Project Manager at a health care organization that
includes an on-site IP correctional care facility, provides a range of
OP services for inmates, and that runs the infirmaries at two
correctional facilities in the area. There are some specific exclusions
in the rule related to correctional care facilities and inmates.
164.512 - Allows disclosure of PHI without consent or authorization to
correctional care facilities or law enforcement under some specific
circumstances (pg 82818)
164.520 - An inmate does not have a right to notice of information
practices pg. 82821)
164.524 - An inmate's access to their PHI may be denied under certain
circumstances (pg. 82823)
164.528 - Accounting of disclosures to correctional care or law
enforcement officials do not have to be included if an accounting is
requested (pg 82826)

Given that the rule defines specific exceptions for correctional care
facilities/inmates in only a few areas I have concluded that other
sections of the rule apply equally to inmates and the general public. Of
course one must take into account applicable state or federal laws that
may also apply to Correctional Care and inmates health records.

Christine Jensen
Senior Analyst - Denver Health
303-436-7942
cjensen@dhha.org

*** This is HIPAAlive! From Phoenix Health Systems ***

Christine;

I don't think that most provider components of correctional facilities
conduct electronic transactions, which means they're not covered under HIPAA
anyway.

If they were covered, the provider component of the correctional institution
would have to give the same protections to inmates' PHI as any other covered

provider entity.

The exceptions have to do with limiting the inmates' right to control their PHI and ensuring that the correctional facilities have access to inmates' PHI. However, the inmate still retains most other rights, including the right to access their medical record - they just can't copy or amend it.

Thanks,

Tom Hanks
Beacon Partners, Inc.

***** [hipaalive] Re: SECURITY: Status of Regulation *****
>>> MargretCPR@aol.com 03/18/01 09:20AM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***

Comments by Bill Braithwaite and other HHS staff earlier this year indicated that the final security rule would: (1.) include language reconciled with the language in the privacy rule, (2.) eliminate redundancy so that there would likely be about 18 standards and fewer implementation features, (3.) would exclude electronic signature, and (4.) would continue to address only electronic security - it will not be changed to address oral and paper forms of protected health information as did the privacy rule.

Margret Amatayakul, RHIA, FHIMSS
MargretVA Consulting, LLC, Schaumburg, IL
margretcpr@aol.com Wtab June 20 - 22 HIPAA Summit West
www.margret-a.com

***** [hipaalive] Re: TCS-NCPDP Standard *****
>>> dfeinberg@home.com 03/20/01 08:05AM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***

The National Council for Prescription Drug Programs (NCPDP) standards, both batch and interactive, are available only from the NCPDP. Their web site, www.ncdp.org, provides more information on ordering and payment.

Unlike the X12N implementation guides for which the federal government pays the publisher a fee every time somebody downloads them for 'free', the NCPDP standards must be explicitly purchased.

Dave Feinberg
Co-Chair, HIPAA Implementation Work Group
Insurance Subcommittee (X12N)
Accredited Standards Committee X12
Voting Member, HL7 and X12
Rensis Corporation [A Consulting Company]
206-617-1717
DAFeinberg@computer.org

***** [hipaalive] PRIVACY - Rumors of Overturning Privacy Rule *****
*** This is HIPAAlive! From Phoenix Health Systems ***

FYI - The following appeared in Reuters. It just gets more and more interesting...

Chris Apgar,
Data Security & HIPAA Compliance Officer
Providence Health Plan
Phone: (503) 574-7927, X-47927
Fax: (503) 574-8655
Pager: (800) 425-5123
E-mail: apgarc@providence.org
<<mailto:apgarc@providence.org>>
Pager E-mail: 4255123@archwireless.net
<<mailto:4255123@archwireless.net>>

HIPAA Privacy Regulations Targeted For Congressional Review

ATLANTA (Reuters Health) Mar 12 - Privacy regulations proposed in the Health Insurance Portability and Accountability Act (HIPAA) may become the second set of regulations to be rejected by Congress under the Congressional Review Act, a health law scholar said here Friday.

Speaking at the 41st annual conference of the American College of Legal Medicine, Charity Scott, professor of law at Georgia State University, reported that although the Federal Register announced that the HIPAA privacy regulations are slated to take effect on April 14, the future of the regulations is very much in doubt.

The Congressional Review Act of 1996 gives Congress the opportunity to review proposed federal regulations for 60 days before they become effective. Congress can vote by simple majority, and with little debate, to reject by "resolution of disapproval" any regulations under review. Such a resolution is totally binding.

Congress recently invoked this act for the first time when it rejected the Department of Labor's controversial proposed ergonomics regulations, via a resolution of disapproval.

The HIPAA privacy regulations are undergoing close scrutiny from Congress, and may be the next target. The most controversial aspect of the proposed regulations is the projected high costs of implementation to healthcare providers due to the additional paperwork, technology and personnel training that will be required.

***** [hipaalive] RE: SECURITY: Certification *****
>>> Holleran@severnapark.com 03/18/01 04:18PM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***

For CISSP, you can get details at www.isc2.org.

In a nutshell, you are required to have 3 years experience in information security. There is an exam (250 questions; 6 hours; multiple choice) that you have to pass.

Web site has better details.

Institutions are starting to offer more information security courses but many professionals acquire their learning through OJT, seminars, conferences, and professional meetings with security groups like ISSA chapter meetings.

Jack Holleran, CISSP

From: Maminsp@aol.com[SMTP:Maminsp@aol.com]
Reply To: hipaalive@lists.hipaalert.com
Sent: Saturday, March 17, 2001 7:25 PM
To: HIPAAlive Discussion List
Subject: [hipaalive] RE: SECURITY: Certification

Can anyone share information regarding the education, training, experience, and certification process required to obtain the credentials of a CISSP and/or CISA?
Thanks.

Maria

***** [hipaalive] RE: PRIVACY (FAXing) *****
*** This is HIPAAlive! From Phoenix Health Systems ***

It is not the sender of information's responsibility to ensure that information received by the sender is being properly used. That is the responsibility of the receiver. The sender only have to ensure that the receiving fax is where the receiver said it is. The sender and receiver have obligations to ensure the security of information. How do you ensure

that information sent to hospital emergency room or a doctor's office is being viewed by one particular person. It is simply impractical.

You have to trust that the receiving facility will safeguard the information you sent to them. If they do not, it is on them not you. There are already stringent rules on faxes that exceed HIPAA regulations. I do not possibly foresee how that will change.

Godwin Odia

*** This is HIPAAlive! From Phoenix Health Systems ***

Unfortunately, you probably have not been in the business of faxing health information for too long. Authorization is the key. If the patient signed for its release, you have nothing to worry about. If it is released based on emergency request, you have nothing to worry about. There are state laws that prevent a hospital/employees acting within their scope of work from being sued if information is unintentionally misused in the course of their official business.

I have been in the business of faxing and receiving medical information for years. There are already strict faxing standards. Due to many misleading information I have been observing over HIPAA I continue to ask that organizations look into their current medical record practices within their own states and they will find many of the answers to HIPAA.

If you want to cite case law, be specific. It is extremely difficult to win these type of cases. The burden of proof is very difficult to overcome. Besides proving injury, it has to be intentional and you have to profit from it among many. There are not many cases out there if any you can point to. If you are not comfortable sending faxes for medical emergencies and when patients authorizes you to do so, good luck and please be prepared to pay out large sums of money if something goes wrong as a result of your refusal. I have no problem faxing information based on our organizational rules and will continue to do so - HIPAA or not.

Godwin Odia

**** [hipaalert] The Executive's Essential HIPAA AudioConference - Next Tuesday, March 27th ****

>>> <info@phoenixhealth.com> 03/19/01 11:08AM >>>

New Combined Audioconference & Q/A Forum Program!

-- From Phoenix Health Systems,
publishers of HIPAAalert and HIPAAdvisory.com

*** THE EXECUTIVE'S ESSENTIAL HIPAA ***

In one, intensive hour -- what every healthcare executive MUST know about HIPAA from a business perspective: its key provisions, its business implications and strategic opportunities, and its overall impact on the healthcare organization.

PLUS, a 3-day follow-up online forum to ask and get answers to your toughest HIPAA questions!

Register Now!

<http://www.hipaadvisory.com/action/signup/>

WHO WILL BENEFIT?

For senior executives and other healthcare leaders and professionals who need an analysis of HIPAA from a business perspective in order to plan for their organizations' futures. For CEO's, CFO's, COO's, CIO's, Medical Directors, Physicians, Department Heads. This is not a technical or administrative guide.

IMPORTANT!: Please forward this announcement to your senior management if you think they should know about this unique program.

WHEN?

- * 60-minute AudioConference: Tuesday, March 27, 2001, 3:00-4:00 p.m.(EST)
 - * plus follow-up Q/A via Expert 3-day Web Forum through Friday, March 30
 - get answers to all your questions online from our HIPAA Solutions Team
-

WHAT'S IN IT FOR YOU?

Now that two of the final regulations are out, 2001 looks to be our first real "year of HIPAA." As a healthcare leader, you need a high-level understanding of the regulations -- from a bottom-line business and operational perspective. How will -- or should -- HIPAA impact on the critical strategic and financial decisions that face you in the next year? In this program, expect a concise, authoritative analysis that will help you to respond to HIPAA and at the same time, achieve significant new benefits for your organization.

Our 3-day online Expert HIPAA Advisory Web Forum will pick up where the conference leaves off - with your questions, answers, case discussion and action advice.

HIGHLIGHTS AND HOTSPOTS:

Drawing upon our extensive original HIPAA research and development work -- and incorporating direct current input from DHHS officials -- THE EXECUTIVE'S ESSENTIAL HIPAA will cover:

- Executive overview of HIPAA and its regulations
- Updated timetable for implementation
- Business impact of HIPAA: operations & costs
- Opportunities in HIPAA compliance: strategic vs status quo approach
- How does your organization's compliance status compare with others?
- Next steps for your organization

The follow-up Expert HIPAA Advisory.com Web Forum will provide:

- 3 full days of continuous "threaded" discussions on HIPAA strategy and management issues, led by Phoenix' HIPAA Solutions Team.
 - The chance to pose your own real-life, tough questions, get direct, authoritative answers -- and review Q/A's of all other participants. Tune in as much or as little as you like -- any time day or night.
 - Indefinite access to the Forum archive
-

EXPERT FACULTY:

From Phoenix Health Systems' HIPAA Solutions Team:

Ken Kisiel, Vice President
Chris Wierz, Vice President
Joe Pokorney, Principal
Helene Guilfooy, Principal

PRICING?

\$120 for live HIPAA 2001 AudioConference, program materials & participation in 3-day Forum. You may invite other members of your staff to listen in on your call.

REGISTER TODAY at:

<http://www.hipaadvisory.com/action/signup/>

SPONSORED BY Phoenix Health Systems, publishers of HIPAA Alert and HIPAA Advisory.com, "the HIPAA hub of the Web"

(Modern Healthcare, 10/2000)

QUESTIONS? E-mail Diane Boettcher at dboettcher@phoenixhealth.com

***** Paul Introduces Legislation to Fight Invasion of Medical Privacy *****

*** This is HIPAAlive! From Phoenix Health Systems ***

FYI: from another list...

<http://www.house.gov/paul/press/press2001/pr031601.htm>

"FOR RELEASE: March 16, 2001

Paul Introduces Legislation to Fight Invasion of Medical Privacy
Proposed Regulations will Devastate Doctor-Patient Relationship

Washington, DC. Congressman Ron Paul yesterday introduced emergency legislation designed to prevent the federal government from implementing dangerous new medical regulations. The regulations, which go into effect April 14th unless blocked by Congress, will do irreparable harm to every American's medical privacy. Paul's "Medical Privacy Protection Resolution" (HJR 38) provides Congress with another chance to review and reject the invasive new rules before they become law.

Paul, a physician for more than 30 years who still practices medicine, knows the critical importance of doctor-patient confidentiality. "Once again we are threatened with government regulations that invade our privacy," he stated. "The last administration wanted to create national medical ID numbers to track your private medical history throughout your life. Now federal health bureaucrats want to access your medical records without your consent, and they want to make it easier for big insurance carriers, pharmaceutical companies, and HMOs to do the same. If they succeed in forcing doctors to turn over private medical information, the sanctity of the doctor-patient relationship will be destroyed."

Specifically, the pending regulations authorize the Department of Health and Human Services (HHS) to implement wide new medical rules. The new rules require doctors and other health providers to disclose private records to the federal government for very broadly defined purposes and without patient consent. Federal and state law enforcement officials are granted access to patient records without a search warrant, despite Fourth and Fifth amendment prohibitions against unreasonable searches and compelled testimony. Patients will have only limited knowledge of who sees their records, and individuals will not be able to sue health care providers or the government for breaches of privacy.

"These regulations will harm millions of Americans," Paul continued. "Patients will be afraid to disclose sensitive information to their doctors because it will end up in a federal database. Patients will be forced to conceal a wide range of sensitive medical problems, such as AIDS, impotence, sexually transmitted diseases, drug and alcohol addictions, and psychiatric problems. Doctors need the full truth to provide effective treatment. The HHS rules turn doctors into government agents, who are required to turn over information which ultimately could be used against their patients by federal agencies, law enforcement, and health insurers."

Lobbyists and government officials undoubtedly will be working overtime to defeat Paul's legislation, but opposition to the HHS regulations is growing among the American people. Some in Congress, including House Majority leader Richard Armey, also have expressed opposition to the HHS rules. All Americans reading this press statement are strongly encouraged to contact their Representatives in Congress and urge them to vote for HJR 38, the "Medical Privacy Protection Resolution."

Peggy Ott
President & CEO, Hammer Logic LLC
5420 Brookwood Drive SE

>>> gloria.burgos@hfch.halifax.org 03/20/01 07:46AM >>>

*** This is HIPAAlive! From Phoenix Health Systems ***

Rep Paul is requesting the repeal of the Medical Privacy regulation based on the 4th & 5th constitutional amendments on providing access to the federal government to the public's private health information.

The AMA testified to the House Ways & Means Comm on 3/15 that although they support the HIPAA standards, they are urging the Administration to create a uniform compliance date of 2 years after the last A.S. rule. The contention that I am reading is not on the entire rule, but on the implementation schedule be a "moving target with rolling deadlines", and are requesting the Administration to "fix" the rule to be a "better privacy rule", not to repeal altogether.

Also on 3/15, DHHS Secretary Thompson testified in front of the same committee on the new Administrations Health and Welfare Priorities and did not mention HIPAA standards at all except to say that the DHHS has proposed \$30 million for a new Information Technology Security fund.

Any comments on direction here....?

***** [hipaalive] PRIVACY: Medical Savings Plans *****

>>> wmacbain@epix.net 03/20/01 07:51AM >>>

*** This is HIPAAlive! From Phoenix Health Systems ***

Sounds like that would come under the definition of "group health plan."

Bill MacBain

MacBain & MacBain, LLC

wam@MacBainandMacBain.com

-----Original Message-----

From: Lindgren, Karin [<mailto:Lindgren@uhc.edu>]

Sent: Monday, March 19, 2001 1:54 PM

To: HIPAAlive Discussion List

Subject: [hipaalive] PRIVACY: Medical Savings Plans

*** This is HIPAAlive! From Phoenix Health Systems ***

Here is a new question for the List:

Does HIPAA apply to employee Medical Savings Plans? Remember this employment benefit is set up so the employee (patient) has a certain amount taken out of each paycheck pretax, then the employee later submits medical bills to a staffer in the company's finance department who reimburses the employee to the extent of his/her "savings." Does receipt of this PHI make the employer a "covered entity?"

Andre
